

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

v.

MARTIN EVERS,

Defendant.

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3:19-CR-250
(JUDGE MARIANI)

FILED
SCRANTON

OCT 26 2021

Per

DEPUTY CLERK

ORDER

AND NOW, THIS 26th DAY OF OCTOBER, 2021, upon consideration of the

"Joint Motion to Continue Trial" (Doc. 172), requesting that the trial in the above-captioned action be continued for a period of 90 days, to wit, until February, 2022, **IT IS HEREBY**

ORDERED THAT:

1. The Joint Motion (Doc. 172) is **GRANTED**.
2. Jury selection and trial, scheduled to commence on November 8, 2021 are **RESCHEDULED** and shall begin on **Monday, February 7, 2022, at 9:30 a.m.** in the William J. Nealon Federal Building, Scranton, Pa., in a courtroom to be designated by the Clerk of Court. Counsel can obtain information on courtroom assignments by contacting the Clerk's office the Friday before the scheduled appearance.
3. The final Pretrial Conference in this matter will be held on **Tuesday, February 1, 2022, at 12:00 p.m.** in the William J. Nealon Federal Building, Scranton, Pa., in a courtroom to be designated by the Clerk of Court. Counsel for both the

Government and Defendant shall attend the conference in person. The purpose of the pretrial conference is to address issues pertaining to jury selection, evidentiary and substantive issues reasonably likely to arise during the course of trial, scheduling of witnesses, and other matters relating to the conduct of the trial. A Court Reporter shall be present for the pretrial conference.

4. The following procedure shall be followed with respect to motions *in limine*:
 - a. Motions *in limine* with supporting briefs shall be filed no later than **thirty (30) days** prior to trial. No party, without leave of Court for good cause shown, shall file more than five (5) motions *in limine*, including subparts. If a party chooses to file one or more motions *in limine*, each motion shall be narrowly tailored, address a single evidentiary issue, and be filed separately. No omnibus motions will be considered by the Court.
 - b. All briefs in opposition/response to the movant's motion(s) *in limine* shall be filed no later than **twelve (12) days** following service of the moving party's motion(s) and supporting brief(s).
 - c. Any Reply briefs shall be filed no later than **five (5) days** following service of the non-moving party's brief(s).
5. Counsel for the Government and the Defendant shall electronically file the following materials via CM/ECF no later than **three (3) days** prior to the final Pretrial Conference:

- a. Trial briefs;
 - b. Proposed voir dire questions;
 - c. A proposed verdict form; and
 - d. Proposed points for charge.
6. Before filing the proposed verdict form and proposed points for charge required by the preceding paragraph, the parties shall follow the following procedure:
 - a. No later than **fourteen (14) days** before trial, counsel shall meet and prepare a joint statement of the law that they agree is applicable to the matters at trial, in the form of instructions to the jury. Counsel shall likewise prepare a proposed verdict form that incorporates their proposed jury instructions in a manner that facilitates the jury's determinations of all relevant issues of fact consistent with the proposed instructions.
 - b. In all cases, parties shall follow the Model Criminal Jury Instructions for District Courts of the Third Circuit. In cases where the Third Circuit has not promulgated instructions, the parties may base their instructions upon the most recent edition of (1) LEONARD SAND, JOHN SIFFERT, WALTER LOUGHLIN, STEVEN REISS & NANCY BATTERMAN, MODERN FEDERAL JURY INSTRUCTIONS, (2) KEVIN O'MALLEY, JAY GREINIG & WILLIAM LEE, FEDERAL JURY PRACTICE AND INSTRUCTIONS, and/or (3) jury instructions for the Commonwealth of Pennsylvania, in such areas where Pennsylvania law applies.

- c. Only when the publications listed above do not provide sufficient guidance to the law at issue may the instructions of other Circuit Courts and/or relevant case law be used.
7. Unless otherwise ordered by the Court, the following trial schedule will be maintained: Each morning session will commence at 9:30 a.m. and end at 12:30 p.m. Each afternoon session will commence at 1:30 p.m. and end at 5:30 p.m.
8. Counsel desiring a side bar conference prior to the commencement of trial at 9:30 a.m. shall notify the Court before 9:00 a.m. Side bar conferences will be held between 9:00 and 9:30 a.m. before the jury is brought into the courtroom.
9. If a plea agreement or plea has been agreed upon by counsel and Defendant after 5:00 p.m. on the last business day or on the weekend preceding the commencement of trial, counsel should notify the Courtroom Deputy, Judith Malave, at judith_malave@pamd.uscourts.gov, and thereafter file a letter with the Court on CM-ECF.
10. Any request to have the jury polled must be made before the Court enters judgment and excuses the jury.
11. Because the Court finds, for the reasons set forth in the parties' joint motion, that the ends of justice will be served by continuing trial and that such a continuation outweighs the best interests of the public and the Defendant in a speedy trial, any

delay occasioned by the continuance of this trial shall be excluded from the speedy trial calculation pursuant to 18 U.S.C. § 3161(h)(7).

A handwritten signature in black ink, appearing to read "R. D. Mariani", written over a horizontal line.

Robert D. Mariani
United States District Judge